



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 7, 1998

Captain Robert Taylor
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR98-2970

Dear Captain Taylor:

You ask that we reconsider our decision in Open Records Letter No. 98-2281 (1998). Your request was assigned ID# 120617.

Open Records Letter No. 98-2281, which concerned a request for a certain accident report, determined that the Amarillo Police Department (the "APD") must release the report to the requestor in accordance with section 47(b)(1) of V.T.C.S. article 6701d. You now argue that, because the report was not made by a law enforcement officer but rather by the driver of one of the vehicles involved in the accident, section 47(b)(1) does not apply.

As you state, the form at issue is a "Driver's Confidential Accident Report," Form ST-2 ("driver's accident report"), apparently devised by the Department of Public Safety ("DPS") and completed by one of the drivers involved in the accident. Section 47(a) reads as follows:

(a) Except as provided by Subsection (b) of this section, all accident reports made as required by this Act or Section 4, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), by persons involved in accidents, by garages, or by peace officers shall be without prejudice to the individual so reporting and shall be privileged and for the confidential use of the Department and agencies of the United States, this state, or local governments of this state having use for the records for accident prevention purposes.

Section 550.061(a) of the Transportation Code provides that the operator of a vehicle involved in an accident shall make a written report of the accident if the accident is not

investigated by a law enforcement officer in certain circumstances. You assert that section 47(a) makes the report confidential and that, since the report was not made by a law enforcement officer, subsection (b)(1) does not authorize its release.

Subsection (b)(1) reads in pertinent part as follows:

(b)(1) The Department [of Public Safety] or a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request to:

...

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

- (i) the date of the accident;
- (ii) the name of any person involved in the accident; or
- (iii) the specific location of the accident.

The requestor in this case provided the APD with the requisite information. However, since the provision requires "a law enforcement agency employing a peace officer who made an accident report" to release "a copy of the report" in certain circumstances, does the provision also require a law enforcement agency to release "a copy of the report" when the report was not made by the law enforcement agency?

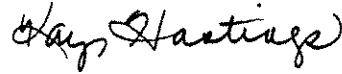
There is no question that section 47(b)(1)(D) requires the DPS to release a driver's accident report to a requestor that supplies the requisite information.¹ To require DPS to release a driver's accident report and prohibit a law enforcement agency from releasing the same report would create an absurd result. Furthermore, we note that section 47(b)(1)(D) does not qualify "the report" that must be released. Subsection (a) references "all accident reports made as required by this Act" and expressly includes those made "by persons involved in accidents." We believe subsection (b) refers to the accident reports in subsection (a). Had the legislature intended to prohibit a law enforcement agency from releasing drivers' accident reports, we believe it would have expressly done so. We therefore affirm Open Records Letter No. 98-2281.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under

¹The Driver's Confidential Accident Report" must be filed with the DPS. Trans. Code § 550.061(b).

the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script that reads "Kay Hastings".

Kay Hastings
Deputy Chief
Open Records Division

KHH/ch

Ref.: ID# 120617

Enclosures: Submitted documents

cc: Ms. Jo Brookfield
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(w/o enclosures)